



**Upper Tribunal  
(Immigration and Asylum Chamber)**

**Appeal Number: HU/04890/2016**

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 24 November 2017**

**Decision & Reasons Promulgated:  
On 6 December 2017**

**Before**

**UPPER TRIBUNAL JUDGE HEMINGWAY**

**Between**

**MRS ZARGHOONA MIR DARWISH**

**(I MAKE NO ANONYMITY DIRECTION)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER – SHEFO**

Respondent

**Representation:**

For the Appellant: Ms S Khan (Counsel)  
For the Respondent: Mrs R Pettersen (Senior Home Office Presenting Officer)

## **DECISION AND REASONS**

1. This is the claimant's appeal to the Upper Tribunal, brought with the permission of a judge of the First-tier Tribunal, from a decision of the First-tier Tribunal (Judge M A Khan hereinafter "the Judge") whereupon he dismissed her appeal against a decision of the entry clearance officer of 21 January 2016 refusing to grant her entry clearance to come to the United Kingdom, with a view to settlement, as a spouse.
2. The application had been refused because the entry clearance officer thought that the claimant had submitted false information with respect to her UK based sponsor's income and employment. The entry clearance officer, in that context, relied upon paragraph S-EC.2.2.(a) of Appendix FM to the Immigration Rules. That was the key issue and the basis for the refusal of the application.
3. The particular concern was said to be that whilst the claimant had submitted a letter from a firm called M and F Mini Market as evidence of her sponsor's employment and income (the letter being dated 16 October 2015 and suggesting that he was at that time a current employee) checks conducted with Her Majesty's Revenue and Customs (HMRC) had, it was said, shown that his employment with that firm had ended on 30 September 2015.
4. The claimant appealed. Her UK based sponsor attended the hearing. At the hearing the Presenting Officer acting on behalf of the Entry Clearance Officer produced a "document verification report" which was said to support the allegation. The Judge did not find the document verification report nor the information contained within it to be persuasive. So he did not dismiss the appeal on quite the same basis upon which the Entry Clearance Officer had refused the application (or so it seems). But nevertheless he does appear to have come to the view, notwithstanding his rejection of the document verification report as being unreliable evidence that false information had been given because the claimant had failed to demonstrate before him that his employment had not ended on 30 September 2015. That, of itself, seems a little confusing. But even more confusingly the Judge, in the penultimate paragraph of his determination, appears to have found both that the requirements of the Immigration Rules regarding financial matters are not met and simultaneously that they are.
5. When the matter came before me Mrs Pettersen, unsurprisingly, said she accepted that the Judge's decision ought to be set aside. She also accepted, Ms Khan having produced some documentary evidence from HMRC, that the employment had not ended in September 2015.
6. In the circumstances, given that the sole point raised by the entry clearance officer has been answered I conclude that it is appropriate for me to set aside the Judge's decision and to re-make the decision myself in the claimant's favour. Accordingly, the claimant's appeal against the Entry Clearance Officer's decision of 21 January 2016 is allowed.

### **Decision**

The decision of the First tier Tribunal involved the making of an error of law and is set aside.

In remaking the decision I allow the claimant's appeal against the entry clearance officer's decision of 21 January 2016 refusing her entry clearance to come to the UK, with a view to settlement, as a spouse.

I make no anonymity direction.

Signed:

Date: 6 December 2017

Upper Tribunal Judge Hemingway

To The Respondent  
Fee Award

I make no fee award. None was sought before me.

Signed

Date: 6 December 2017

Upper Tribunal Judge Hemingway